

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO: 04-10816-MLW

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ABC MORTGAGE CORPORATION \*  
f/k/a JOHN G. MACLEOD d/b/a ABC \*  
MORTGAGE COMPANY, \*

Plaintiff, \*

v. \*

SCOTTSDALE INSURANCE, CO. \*

Defendant. \*

\*\*\*\*\*

**AFFIDAVIT OF KERRY D. FLORIO**

I, Kerry D. Florio, hereby state under oath and based on my own personal knowledge that:

1. I am an attorney admitted to practice law in Massachusetts and before this court. I represent the interests of ABC Mortgage Corporation f/k/a John G. MacLeod d/b/a ABC Mortgage Company with respect to this matter.
2. The parties attended a Scheduling Conference June 6, 2005 after temporarily staying this matter for a period of time in order to explore possible case resolution before engaging in further litigation.
3. The Court issued a Scheduling Order on June 7, 2005.
4. The Scheduling Order established a Discovery Deadline of February 3, 2006.
5. The parties continued to engage in discussions regarding case resolution.
6. On November 8, 2005, counsel for ABC Mortgage served written discovery on defendant, Scottsdale Insurance Company.
7. On November 9, 2005, counsel for ABC Mortgage noticed the 30(b)(6) deposition of Scottsdale Insurance Company for December 14, 2005.

8. Before proceeding with this discovery, the parties agreed to again discuss case resolution.
9. The parties agreed to postpone discovery pending these discussions.
10. The parties agreed to either file a stay of this matter or file an assented to motion to extend the scheduling order should the parties decide to continue to litigate this matter.
11. Pursuant to that agreement, the plaintiff now seeks additional time in order to complete discovery in this matter.
12. In addition to obtaining written discovery from Scottsdale, ABC Mortgage anticipates deposing Scottsdale Insurance Company representatives (including Dean Clause and Kathy Davin listed in Scottsdale's Initial Disclosure) on the various topics outlined in its deposition notice, including but not limited to Scottsdale's underwriting file, investigation of the underlying claim, Scottsdale's claim file, Scottsdale's coverage opinion, Scottsdale's denial of the claim, Scottsdale's underwriting guidelines and regulations, policies, procedures, rules and regulations relative to coverage for commercial general liability policies, policies, rules and/or guidelines regarding coverage for TCPA claim, Scottsdale's correspondence with Melick, Porter and Shea relative to this matter, and Scottsdale's answer and defenses in this matter.
13. Counsel for Scottsdale Insurance Company has informed me that Scottsdale will assent to this motion.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY.

/s/ Kerry D. Florio  
Kerry D. Florio

Date: 2/6/06